

HB 2 COMPANION BILL

A Report Prepared for the

Legislative Finance Committee

By
Taryn Purdy

October 3, 2002

Legislative Fiscal Division



www.leg.state.mt.us/fiscal

INTRODUCTION

HB 2 is law and can be used to compel action. As a consequence, agencies and others make every effort to comply with HB 2 requirements. At the same time, it is important that HB 2 be such that all aspects of the bill are taken seriously by all concerned and that the legislature expect and legally compel if necessary compliance with all aspects of the bill. To do this, however, HB 2 must:

- 1) Be in compliance with constitutional and statutory requirements itself; and
- 2) Not contain language or other conditions for which the legislature cannot or does not desire to compel action.

This report raises the issue of whether the Legislative Finance Committee wishes to endorse the concept of a companion bill to HB 2 that would move in tandem with HB 2. The companion bill would:

- 1) Provide a vehicle for substantive law changes to implement HB 2; and
- 2) Allow for the inclusion at any time in the process for other HB 2-related substantive law changes.

The second question for consideration is whether the LFC wishes to endorse the concept of a separate section or vehicle for certain types of statements of legislative intent that may not be appropriate for HB 2.

COMPANION BILL

The constitution specifically exempts HB 2 from the requirement that a bill have only one subject. However, HB 2 must still meet certain constitutional and statutory requirements.

- 1) HB 2 cannot change substantive law without violating the constitutional provision that “a general appropriation bill shall contain only appropriations for the ordinary expenses of the legislative, executive, and judicial branches, for interest on the public debt, and for public schools”
- 2) If a substantive law change is necessary to implement a provision of HB 2, it must be included in a separate bill¹
- 3) The deadline for introducing bills to implement the provisions of a general appropriations act is the 75th day (without a suspension of rules)

There is currently no process for addressing substantive law changes associated with HB 2. Instead, separate bills are necessary. There are pros and cons to this approach.

Pros:

- 1) The legislature is only asked to vote on one issue at a time
- 2) Legislators can make entirely separate decisions on separate issues

Cons:

- 3) Substantive law changes are sometimes attempted in HB 2, jeopardizing the bill’s legality
- 4) Coordination of the bills with HB 2 can be difficult

¹ Examples of substantive law changes include changes in fees or their application or allocation, eligibility for services, etc.

- 5) Separate bills can make for a disjointed process, with legislators perhaps not aware of the cumulative impact of changes
- 6) Changes late in the process (after the 75th day, which can include the Senate Floor and always includes Free Conference Committee) that require a substantive law change would require a suspension of the rules to allow for introduction

A companion bill that would accompany HB 2 through the process and include substantive law changes would:

- 1) Provide a mechanism for keeping substantive law changes out of HB 2 while still associating those changes with HB 2.
- 2) Allow for coordination of substantive law changes necessary to implement HB 2.
- 3) Allow a vehicle for substantive law changes until the end of the session.²

The issue for consideration is the scope of the bill, as any one contentious issue could theoretically jeopardize the entire bill.

OPTIONS

- 1) Endorse the concept of an omnibus companion bill, with the recommendation that all substantive law changes required in HB 2 be included in the bill to allow for total coordination with HB 2.
- 2) Endorse the concept of a companion bill, but do not recommend that all HB 2 changes be included, maintaining the option to separate more contentious issues in separate legislation (any other bills would have to be submitted by the 75th legislative day).
- 3) Do not endorse the companion bill concept.

OTHER INTENT MECHANISMS

As stated, HB 2, including language and other conditions is law. In order to maintain HB 2's power, there should be a clear expectation of compliance with the provisions of HB 2, and willingness to act if compliance is not met. Therefore, HB 2 should not include language for which compliance is not really expected, or which will not be pursued.

- 1) Agencies may not know which sections of the law are truly mandated, causing confusion as to which directions to follow, particularly if the agency must set priorities.
- 2) Committees of the legislature charged with monitoring compliance will not know which issues to pursue.
- 3) Lack of diligence on the part of the legislature to enforce HB 2 law could result in lax compliance attitudes on the entire bill.

With the committee's concurrence, LFD staff will create a separate section in the HB 2 narrative that accompanies HB 2 for "intent" language that gives direction or makes statements important to the legislature, but for which the legislature may not necessarily

² For example, late in the 2001 legislative session, a legislator wanted to establish an appropriation and create a commission to oversee the expenditure of the funds. Creating a commission required a substantive law change, but there was no vehicle available. It was also past the 75th legislative day.

expect compliance, or may recognize that changing circumstances may warrant a change in expectation or action. In this way, the legislature's view will still on record, but HB 2 is reserved for more substantive conditions of appropriation for which compliance will be pursued.

S:\Legislative_Fiscal_Division\LFD_Finance_Committee\LFC_Reports\2002\October 3\HB2_Companion_Bill.doc